

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC. APPLICATION N.O 3490 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 : NO

GANPATBHAI DALSUKHBHAI CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

MR BS PATEL for Petitioners
MR BY MANKAD APP for Respondent No. 1

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 01/09/98

ORAL JUDGEMENT

Rule. Mr. B.Y Mankad, learned APP waives service of notice of rule on behalf of the respondent.

Heard the learned counsel for the petitioners and Mr. Mankad, learned APP for the State. I have also gone through the papers at Annexure "B" - Birth Date Certificate of the victim Gitaben which shows that her

birth date is 19-01-1980. It is a true copy of the Certificate filed by the learned counsel for the petitioners, and therefore, there is no reason to disbelieve the same. Over and above this, he has also produced zerox true copy of Marriage Certificate at Annexure "C" which shows that the said marriage had taken place between the present petitioner and said Gitaben victim on 3rd June, 1998 and admittedly the girl is above 18 years at the time of incident i.e., 2nd August, 1998.

2. Parties do not press for reasoned order.

3. Considering the submissions made on behalf of the parties, and having regard to the circumstances and facts of the case, it is ordered that in the event of arrest of the petitioners in connection with Enquiry Case No. 0/75-A/98, registered at D.C.B Police Station, Vadodara, they shall be released on bail in respect of the offence alleged against them in this application on each of them executing a bond of Rs. 5000/- (Rupees five thousand only) with one surety of the like amount, by the concerned Police officer and on conditions that they shall;

- (a) make themselves available for interrogation by the Police Officer, whenever and wherever required;
- (b) not directly or indirectly make any inducement, threats or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any Police officer;
- (c) not to obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- (d) at the time of execution of bond, furnish their address to the Investigating Officer and the Court and shall not change their residence till the final disposal of the case or till further orders;

4. It would be open to the Investigating Officer to file an application for remand, if he considers it proper and just, and the learned Magistrate would decide it on merits.

5. This order will hold good if the petitioners are

arrested at any time within 90 days from today. The order for release on bail will remain operative only for a period of ten days from the date of their arrest. Thereafter, it will be open to the petitioners to make a fresh application for being enlarged on bail in usual course which, when it comes before the competent Court, will be disposed of in accordance with law, having regard to all the attending facts and circumstances and the materials available at the relevant time, uninfluenced by the fact that anticipatory bail was granted.

6. Rule is made absolute. Direct service is permitted.

Prakash*